

A president's power is not absolute



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My column last month addressed the actions of the new administration in its quest to reduce the federal budget. Since then, we have seen hectic showmanship designed to torture good and decent public servants. The high-profile discarding of so many federal employees, without a scintilla of evidence indicating misconduct, is just wrong.

And, even if there were actionable evidence, there should be a dignified way of taking the appropriate steps to remove an employee if it was justified. There is nothing wrong with looking for

and addressing fraud and waste in our government; however, it is terribly wrong for the administration to bypass due process.

President Franklin Delano Roosevelt signed the National Labor Relations Act (NLRA) into law on July 5, 1935. In so doing, he indicated that:

A better relationship between labor and management is the high purpose of this Act. By assuring the employees the right of collective bargaining it fosters the development of the employment contract on a sound and equitable basis. By providing an orderly procedure for determining who is entitled to represent the employees, it aims to remove one of the chief causes of wasteful economic strife. By preventing practices which tend to destroy the independence of labor, it seeks, for every worker within its scope, that freedom of choice and action which is justly his.

Section 3 of the NLRA provides that a National Labor Relations Board (NLRB) shall be created and that after initial appointments, the terms will be for five years. In Section 10 of the NLRA, it indicates that:

[The] board is empowered...to prevent any person from engaging in any unfair labor practice...affecting commerce... Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board...

Why the brief history reference? Gwynne Wilcox, who was appointed to the NLRB by President Biden

in 2021, and who was re-appointed to a five-year term and confirmed by the Senate in December of 2024, was summarily fired by President Trump by letter received on Jan. 27, 2025.

She is quoted as saying: "I handled cases where workers were fired and retaliated against for their conduct, but I never imagined that I would be the person being fired for doing my job."

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In a decision dated March 6, 2025, Judge Beryl A. Howell of the United States District Court for the District of Columbia reversed the "removal" with the following wording:

...To start, the Framers made clear that no one in our system of government was meant to be king—the President included—and not just in name only...A President who touts an image of himself as a 'king' or a 'dictator,' perhaps as his vision of effective leadership, fundamentally misapprehends the role under Article II of the U.S. Constitution. In our constitutional order, the President is tasked to be a conscientious custodian of the law, albeit an energetic one, to take care of effectuating his enumerated duties, including the laws enacted by the Congress and as interpreted by the Judiciary.

In the conclusion, the judge provided the following:

The President seems intent on pushing the bounds of his office and exercising his power in a manner violative of clear statutory law to test how much the courts will accept the notion of a presidency that is supreme...An American President is not a king—not even an 'elected' one—and his power to remove federal officers and honest civil servants like plaintiff is not absolute, but may be constrained in appropriate circumstances, as are present here.

I share the above as I believe there is a hypocrisy in unjustly firing a civil servant who serves on the board whose purpose is to prevent unfair labor practices.

Stand up for what is right and just, and respect the rights of employees. Stand up with your union when you are called on to rally and keep an eye on each other.